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**Federal Communications Commission**

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**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Fisher Wireless Services, Inc.	)	File No.: EB-FIELDWR-13-00010426
Licensee of Station WPMU872	)	
	)	
Walnut Creek, California	)	NOV No.: V201332960020
	)	
	)	
	)	

**NOTICE OF VIOLATION**

**Released: August 15, 2013**

By the District Director, San Francisco Office, Western Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's rules (Rules)<sup>1</sup> to Fisher Wireless Services, Inc., licensee of radio station WPMU872 in Walnut Creek, California. Pursuant to Section 1.89(a) of the Rules, issuance of this Notice does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violation(s) noted herein.<sup>2</sup>

2. On February 20, 2013, and April 13, 2013, an agent of the Enforcement Bureau's San Francisco Office monitored radio station WPMU872 located in Walnut Creek, California and observed the following violations:

- a. 47 C.F.R. § 90.403(c): "Except for stations that have been granted exclusive channels under this part and that are classified as commercial mobile radio service providers pursuant to Part 20 of this chapter, each licensee must restrict all transmissions to the minimum practical transmission time and must employ an efficient operating procedure designed to maximize the utilization of the spectrum." At the time of the investigations, the agent observed that WPMU872 was transmitting on 462.425 MHz nearly continuously.
- b. 47 C.F.R. § 90.403(e): "Licensees shall take reasonable precautions to avoid causing harmful interference. This includes monitoring the transmitting

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<sup>1</sup> 47 C.F.R. § 1.89.

<sup>2</sup> 47 C.F.R. § 1.89(a).

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frequency for communications in progress and such other measures as may be necessary to minimize the potential for causing interference.” At the time of the investigations, the agent monitored WPMU872 and observed a digitally modulated continuous signal on 462.425 MHz, a frequency shared with other licensees in the San Francisco area. The agent observed no evidence of monitoring the transmitting frequency for communications in process or other measures to avoid interference by WPMU872.

3. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,<sup>3</sup> and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, Fisher Wireless Services, Inc., must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.<sup>4</sup>

4. In accordance with Section 1.16 of the Rules, we direct Fisher Wireless Services, Inc. to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Fisher Wireless Services, Inc., with personal knowledge of the representations provided in Fisher Wireless Services, Inc.’s response, verifying the truth and accuracy of the information therein,<sup>5</sup> and confirming that all of the information requested by this Notice which is in the licensee’s possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.<sup>6</sup>

5. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

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<sup>3</sup> 47 U.S.C. § 308(b).

<sup>4</sup> 47 C.F.R. § 1.89(c).

<sup>5</sup> Section 1.16 of the Rules provides that “[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person . . . . Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : ‘I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)’.” 47 C.F.R. § 1.16.

<sup>6</sup> 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

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San Francisco Office  
5653 Stoneridge Drive, Suite 105  
Pleasanton, California 94588-8543

6. This Notice shall be sent to Fisher Wireless Services, Inc. at its address of record.

7. The Privacy Act of 1974<sup>7</sup> requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

David K. Hartshorn  
District Director  
San Francisco Office  
Western Region  
Enforcement Bureau

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<sup>7</sup> P.L. 93-579, 5 U.S.C. § 552a(e)(3).